

立法會

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Subcommittee on Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of Schedule 1) Notice 2018 and Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2018

Background brief

Purpose

This paper provides background information on the toll adjustment mechanisms for the Western Harbour Crossing ("WHC") and the Tai Lam Tunnel and Yuen Long Approach Road ("Route 3"), and summarizes concerns expressed by members of the Panel on Transport ("the Panel") on related issues.

Background

2. The toll adjustment mechanisms for WHC and Route 3 are stipulated in the Western Harbour Crossing Ordinance (Cap. 436) and the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474) ("the Ordinances") respectively. Briefly, the franchisees of WHC and Route 3 may effect toll increases on certain specified dates¹ ("anticipated toll increases"). In addition, if a franchisee's actual net revenue in any year is less than the minimum estimated net revenue for that year as stipulated in the relevant Ordinances, the franchisee may advance an anticipated toll increase, and apply for additional toll increases after all the anticipated toll increases have been effected.

3. Tolls adjusted according to the mechanisms stipulated in the Ordinances are called "statutory tolls", which do not require the Government's approval. However, where a toll is increased, the Commissioner for Transport must by notice published in the Gazette amend the relevant Schedule to the Ordinance to vary the relevant toll. The Ordinances also provide that section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) does not apply in respect of any such notice; accordingly, any such notice, is not required to be tabled at, and is not subject to amendment by, the Legislative Council.

¹ Section 45 of Cap. 436 stipulates that the franchisee may give effect to toll increases on six specified dates (i.e. 1 January of 2001, 2005, 2009, 2013, 2017 and 2021). Section 39 of Cap. 474 stipulates that the franchisee may give effect to toll increases on three specified dates (i.e. 1 January of 2003, 2010 and 2017).

4. According to the Administration, since the commissioning of WHC and Route 3, the franchisees' actual net revenues have consistently fallen short of the minimum estimated net revenue levels stipulated under the Ordinances. Given such, The franchisees of WHC and Route 3 have effected 16 and 15 statutory toll increases respectively.

5. In June 2018, the franchisee of WHC informed the Administration that based on its 2014-2015 statement of net revenue ("NRS"), it would like to have the new statutory toll levels to take effect on 31 July 2018. In July 2018, the franchisee of Route 3 informed the Administration that based on its 2013-2014 NRS, it would like to effect the new toll levels on 1 August 2018. Meanwhile, the franchisees would continue to offer the concessions to all types of vehicles so that the current concessionary tolls would be maintained, and users would not be affected by the changes in the statutory tolls. The existing and new statutory tolls as well as the applicable concessionary tolls of WHC and Route 3 are at **Appendix I**.

6. On 27 July 2018, the Commissioner for Transport published in the Gazette the new statutory tolls of Route 3 and WHC under the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of Schedule 1) Notice 2018 (L.N. 145) and the Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2018 (L.N. 146). L.N. 145 and L.N. 146 are made to:

- (a) replace Schedule 1 to Cap. 474 with a new Schedule 1 to reflect the increase of statutory tolls payable for the use of Route 3 with effect from 1 August 2018 pursuant to section 45(1) of Cap. 474; and
- (b) replace Schedule 1 to Cap. 436 with a new Schedule 1 to reflect the increase of statutory tolls payable for the use of WHC with effect from 31 July 2018 pursuant to section 52(1) of Cap. 436.

Panel discussion

7. The Panel was briefed on the new concessionary tolls of WHC and Route 3 (effective from 1 January 2013) at its meeting on 15 March 2013. The major views and concerns of members are summarized in ensuing paragraphs.

8. Members expressed dissatisfaction that the Administration was incompetent to prevent the franchisees of WHC and Route 3 from increasing their tolls automatically. Given the high estimated net revenue levels stipulated under the Ordinances, some members were worried that the franchisees would continue to increase the tolls to fill the gap between the actual and estimated net revenue, which would further add to the burden of tunnel users. A member therefore suggested the Administration to consider amending the relevant

legislation while certain members urged the Administration to buy back WHC and Route 3 for the sake of public interest.

9. The Administration advised that it had no authority to disallow toll increases as long as the franchisees of WHC and Route 3 had made the toll adjustments within the levels allowed in the relevant Ordinances which did not require the Administration's approval. However, every time the franchisees decided to increase the tolls, the Administration had urged them to have due regard to public affordability and acceptability in devising its tolling strategy. As a result, the level of actual tolls was below that of the statutory tolls. Meanwhile, the Administration had no plan to buy back the two tunnels.

10. Some members were concerned that the toll increase of Route 3 would divert additional traffic to Tuen Mun Road ("TMR") and further aggravate the traffic congestion problem there. The Administration advised that the widening works of TMR were being conducted, and the provision of two main roads, i.e. tolled Route 3 and non-tolled TMR, would provide adequate choices for Tuen Mun residents.

11. Regarding members' questions on whether measures had been devised to divert the traffic from the Cross Harbour Tunnel ("CHT") to WHC or to solve the problem of uneven distribution of traffic among the Eastern Harbour Crossing, CHT and WHC, the Administration explained that it had considered reducing WHC tolls to divert traffic from CHT, but dropped the option because WHC, though currently running under its design capacity, was constrained by the traffic conditions at its connecting roads (particularly those in Central). This constraint might be overcome when the Central-Wanchai Bypass came into operation.

Latest position

12. At the meeting of the House Committee on 5 October 2018, Members agreed to form a subcommittee to study the Legal Notices.

Relevant papers

13. A list of relevant papers on the Legislative Council Website is in **Appendix II**.

Appendix I

Western Harbour Crossing Tolls

Category	Vehicle	Statutory tolls (\$)		Concessionary tolls (\$)
		Before increase	w.e.f. 31 July 2018	
1.	Motorcycles, motor tricycles	130	140	25
2.	Private cars, electrically powered passenger vehicles	225	240	70
	Taxis	225	240	65
3.	Public and private light buses	270	290	80
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	320	340	80
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	225	240	30
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	490	525	105
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	225	240	30
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	680	725	135
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	225	240	30
7.	Public and private single-decked buses	270	290	130
8.	Public and private double-decked buses	400	430	185

Tai Lam Tunnel and Yuen Long Approach Road Tolls

Category	Vehicle	Statutory tolls (\$)		Concessionary tolls (\$)
		Before increase	w.e.f. 1 August 2018	
1.	Motorcycles, motor tricycles	85	90	20
2.	Private cars, electrically powered passenger vehicles, taxis	90	95	44
3.	Public and private light buses	255	270	100
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	255	270	45
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	95	100	0
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	265	280	50
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	95	100	0
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	285	300	55
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	95	100	0
7.	Public and private single-decked buses	255	270	130
8.	Public and private double-decked buses	270	285	153

List of relevant papers

Committee	Date of meeting	Papers
Panel on Transport	15.3.2013 (Item IV)	Agenda Minutes
Legislative Council	20.3.2013	Official Record of Proceedings Pages 92-94 (Question 11)
Panel on Transport	16.2.2015*	CB(4)532/14-15(01) CB(4)532/14-15(02) CB(4)532/14-15(03) CB(4)532/14-15(04)
Legislative Council	6.1.2016	Official Record of Proceedings Pages 121-131 (Question 16)
Legislative Council	15.6.2016	Official Record of Proceedings Pages 116-120 (Question 15)
Panel on Transport	23.12.2016*	CB(4)355/16-17(01) CB(4)355/16-17(02) CB(4)355/16-17(03) CB(4)355/16-17(04) CB(4)355/16-17(05)
Panel on Transport	25.5.2018*	CB(4)1145/17-18(01) CB(4)1145/17-18(02) CB(4)1145/17-18(03)
House Committee	5.10.2018 (Item III)	Legal Service Division Report LS94/17-18

* Date of issue